1761551N25A - SH-AD-32A (OPES) (4/91)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: February 26, 2004

EXECUTIVE FORCE REVIEW COMMITTEE
POLICY ASSESSMENT
DISPOSITION SHEET

FILE NO: IAB #2082557

FROM: **JOHNNY G. JURADO, COMMANDER**
DENNIS A. CONTE, COMMANDER
MICHAEL G. SAVIDAN, COMMANDER

TO: **ERIC B. SMITH, CAPTAIN**
INTERNAL AFFAIRS BUREAU

SUBJECT: **[redacted] DEPUTY #[redacted], CENTURY STATION, FOR II**
ROJAS, JOSE, DEPUTY #[redacted] CENTURY STATION, FOR II
[redacted] DEPUTY #[redacted] CENTURY STATION, FOR II

On February 13, 2003, Deputies responded to a "Mentally Ill Person Hitting Cars" call. Upon arrival, deputies saw Juan Acuna swinging a plastic trash bag filled with cans and bottles and talking to himself. Deputy [redacted] ordered Acuna to drop the bag, but instead Acuna swung the bag at Deputy [redacted] and hit him in the side of the head. Deputy Rojas grabbed Acuna from behind and tackled him to the ground. Acuna continued to struggle, and Deputy [redacted] approached and ordered Deputy Rojas off Acuna so he could use the taser. Deputy [redacted] tased Acuna with the M-26 taser and Acuna then allowed himself to be handcuffed without further incident. Acuna was transported to the hospital for treatment, where it was discovered that he had a fractured bone in his shoulder.

On February 12, 2004, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the Committee were: 3-01/025.00, Use of Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards. Concerning:

3-01/025.00, Use of Force, and 3-01/025.10, Unreasonable Force, the Committee determined that the force used all personnel was reasonable and necessary and in compliance with Department policy.

3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by the deputies were in compliance with Department policy, and directed the Unit Commander ensure that Deputy Veloz was current with regard to his force training.

Johnny G. Jurado, Commander

TABLE OF CONTENTS
FO# 2082557

Supervisor's Report on Use of Force Form

Investigative Narrative

Exhibits:

Miscellaneous Documents

Los Angeles County Sheriff's Department
Supervisor's Report on Use of Force

Incident Information

URN:	403-02904-2170-057	Date:	02-13-03	Time:	1310
Location:	[redacted] Slauson Avenue				
City or Station:	Los Angeles				
Bureau/Station/Facility:	Century Station	Admin. Investigation:	YES ☐ NO ☒		

Employee Witnesses

Emp. #	Last Name	First Name	Middle Name
[redacted]	Starz	Curt	B.
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]

Non-Employee Witnesses

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]	[redacted]	43	[redacted]

Street Address	City	Zip Code	Work Ph.	Home Ph.
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]	[redacted]	40	[redacted]

Street Address	City	Zip Code	Work Ph.	Home Ph.
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]	[redacted]	32	[redacted]

Street Address	City	Zip Code	Work Ph.	Home Ph.
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

On Duty Supervisor

Emp. #	Last Name	First Name	Middle Name	Rank	Present	Witness to Incident
[redacted]	Beruman	George	nmn	Sgt.	YES ☐ NO ☒	YES ☐ NO ☒
					YES ☐ NO ☐	YES ☐ NO ☐

Watch Sergeant

Emp. #	Last Name	First Name	Middle Name
[redacted]	Bell	Destry	E.

Watch Commander

Emp. #	Last Name	First Name	Middle Name
[redacted]	Lally	James	J.

Watch Commander's Signature: ______________________ Emp #: __________

Copy Provided to Employee by: ______________________ Emp #: __________

Supervisor Completing Form: David J. Stunson (Print) Emp #: [redacted]

Unit Commanders Signature: ______________________ Emp #: __________ Date Signed: __________

PSTD Use Only

FO#

Original: Unit Commander
Copy: P.S.T.D.Headquarters, Employee

SH-R-438 Rev. 10/98

See Reverse

Supervisor's Report on Use of Force

URN: 403-02904-2170-057

Method

(AW) Arwen
(BC) Baton: (Control)
(BI) Baton: (Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds: (Control Techniques)
(TT) Control Holds: (Team Takedown)
(TD) Control Holds: (Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device: Hobble (Legs Only)
(TP) Restraint Device: Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hands
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(NO) Nose
(SH) Shoulder
(WR) Wrist

FORCE APPLIED

(Only One Code Per Block)

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Type of Injury (Code)	Body Part (Code)
E#1	S#1	RH	FR	SH
E#2	S#1	TD	FR	SH
E#3	S#1	TR	AB	HE
S#1	E#1	PO	BR	HE

See Front Side

Supervisor's Report on Use of Force
INVOLVED EMPLOYEE INFORMATION

URN: 403-02904-2170-057

Involved Employee

E1

Employee #	Last Name	First Name	Middle Name
[redacted]	[redacted]	[redacted]	[redacted]

Sex	Race	Unit of Assignment	Work Assignment (Unit #, Module, etc.)
☒ Male ☐ Female	H	[redacted]	[redacted]

Shift		Age	Height	Weight
☐ EM ☒ Day ☐ PM	☒ Regular Shift ☐ OT Shift ☐ Off Duty	[redacted]	5-08	140

Medical Exam/Treatment	If Admitted, Name of Hospital	Coroner Case #	
☒			Directed Force ☐ Significant Force ☒

E2

Employee #	Last Name	First Name	Middle Name
[redacted]	Rojas	Jose	J.

Sex	Race	Unit of Assignment	Work Assignment (Unit #, Module, etc.)
☒ Male ☐ Female	H	Century Station	216B

Shift		Age	Height	Weight
☐ EM ☒ Day ☐ PM	☒ Regular Shift ☐ OT Shift ☐ Off Duty	[redacted]	5-09	195

Medical Exam/Treatment	If Admitted, Name of Hospital	Coroner Case#	
☐			Directed Force ☐ Significant Force ☒

E3

Employee #	Last Name	First Name	Middle Name
[redacted]	[redacted]	[redacted]	[redacted]

Sex	Race	Unit of Assignment	Work Assignment (Unit #, Module, etc.)
☒ Male ☐ Female	H	[redacted]	[redacted]

Shift		Age	Height	Weight
☐ EM ☒ Day ☐ PM	☒ Regular Shift ☐ OT Shift ☐ Off Duty	[redacted]	5-11	180

Medical Exam/Treatment	If Admitted, Name of Hospital	Coroner Case#	
☐			Directed Force ☐ Significant Force ☒

E_

Employee #	Last Name	First Name	Middle Name

Sex	Race	Unit of Assignment	Work Assignment (Unit #, Module, etc.)
☐ Male ☐ Female			

Shift		Age	Height	Weight
☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty			

Medical Exam/Treatment	If Admitted, Name of Hospital	Coroner Case#	
☐			Directed Force ☐ Significant Force ☐

E_

Employee #	Last Name	First Name	Middle Name

Sex	Race	Unit of Assignment	Work Assignment (Unit #, Module, etc.)
☐ Male ☐ Female			

Shift		Age	Height	Weight
☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty			

Medical Exam/Treatment	If Admitted, Name of Hospital	Coroner Case#	
☐			Directed Force ☐ Significant Force ☐

E_

Employee #	Last Name	First Name	Middle Name

Sex	Race	Unit of Assignment	Work Assignment (Unit #, Module, etc.)
☐ Male ☐ Female			

Shift		Age	Height	Weight
☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty			

Medical Exam/Treatment	If Admitted, Name of Hospital	Coroner Case#	
☐			Directed Force ☐ Significant Force ☒

See Other Side

Supervisor's Report on Use of Force
SUSPECT INFORMATION

URN: 403-02904-2170-057

Suspect Information

S1

Last Name: Acuna		First Name: Juan		Middle Name: NMN		
AKA Last Name:		First Name:		Middle Name:		
Sex: ☒ Male ☐ Female	Race: H	Street Address: [redacted]		City:	State & Zip Code:	
Work Phone:	Home Phone:	Age: 41	Height: 506	D.O.B. 01-25-1961	Weight: 150	Armed? ☐
Booking #: 7588638	Primary Charge: 245(c) P.C.		Secondary Charge: 245(a)(1) P.C.		Criminal History [redacted]	
Hospital Admission? ☒	Rec'd Treatment At: St. Francis Hospital		Coroner Case#:		Mental History ☐	
Under Influence: ☐ YES ☐ NO Substance: ____			Photos of Suspect's Injuries ☒ YES ☐ NO			

Suspect Interview

Date: 02-12-2003	Time: 2230	Audiotape: ☒	Videotape: ☐

Suspect Information

S_

Last Name:		First Name:		Middle Name:		
AKA Last Name:		First Name:		Middle Name:		
Sex: ☐ Male ☐ Female	Race:	Street Address:		City:	State & Zip Code:	
Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed? ☐
Booking #:	Primary Charge:		Secondary Charge:		Criminal History ☐	
Hospital Admission? ☐	Rec'd Treatment At:		Coroner Case#:		Mental History ☐	
Under Influence: ☐ YES ☐ NO Substance: ____			Photos of Suspect's Injuries ☐ YES ☐ NO			

Suspect Interview

Date:	Time:	Audiotape: ☐	Videotape: ☐

Suspect Information

S_

Last Name:		First Name:		Middle Name:		
AKA Last Name:		First Name:		Middle Name:		
Sex: ☐ Male ☐ Female	Race:	Street Address:		City:	State & Zip Code:	
Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed? ☐
Booking #:	Primary Charge:		Secondary Charge:		Criminal History ☐	
Hospital Admission? ☐	Rec'd Treatment At:		Coroner Case#:		Mental History ☐	
Under Influence: ☐ YES ☐ NO Substance: ____			Photos of Suspect's Injuries ☐ YES ☐ NO			

Suspect Interview

Date:	Time:	Audiotape: ☐	Videotape: ☐

See Other Side

Supervisor's Report on Use of Force

URN: 403-02904-2170-057

Non-Employee Witnesses (Continuation)

Last Name		First Name		Middle Name
[redacted]		[redacted]		[redacted]
Street Address	**City**	**Zip Code**	**Work Ph.**	**Home Ph.**
[redacted]	[redacted]	90262	[redacted]	[redacted]
Last Name		**First Name**		**Middle Name**
Street Address	**City**	**Zip Code**	**Work Ph.**	**Home Ph.**
Last Name		**First Name**		**Middle Name**
Street Address	**City**	**Zip Code**	**Work Ph.**	**Home Ph.**
Last Name		**First Name**		**Middle Name**
Street Address	**City**	**Zip Code**	**Work Ph.**	**Home Ph.**
Last Name		**First Name**		**Middle Name**
Street Address	**City**	**Zip Code**	**Work Ph.**	**Home Ph.**
Last Name		**First Name**		**Middle Name**
Street Address	**City**	**Zip Code**	**Work Ph.**	**Home Ph.**
Last Name		**First Name**		**Middle Name**
Street Address	**City**	**Zip Code**	**Work Ph.**	**Home Ph.**
Last Name		**First Name**		**Middle Name**
Street Address	**City**	**Zip Code**	**Work Ph.**	**Home Ph.**
Last Name		**First Name**		**Middle Name**
Street Address	**City**	**Zip Code**	**Work Ph.**	**Home Ph.**
Last Name		**First Name**		**Middle Name**
Street Address	**City**	**Zip Code**	**Work Ph.**	**Home Ph.**
Last Name		**First Name**		**Middle Name**
Street Address	**City**	**Zip Code**	**Work Ph.**	**Home Ph.**
Last Name		**First Name**		**Middle Name**
Street Address	**City**	**Zip Code**	**Work Ph.**	**Home Ph.**
Last Name		**First Name**		**Middle Name**
Street Address	**City**	**Zip Code**	**Work Ph.**	**Home Ph.**

INVESTIGATIVE NARRATIVE
USE OF FORCE

TYPE: **PHYSICAL FORCE TO OVERCOME RESISTIVE SUSPECT, SUSPECT INJURED**

I.A.B. FILE NUMBER: FO2082557
URN: 403-02904-2170-057

On Thursday, February 13, 2003, at 1930 hours, Sergeants David Stunson and Joe Gooden of the Internal Affairs Bureau responded to Century Station regarding a use of force incident involving Century Station personnel which occurred at 1310 hours. Involved personnel had gone home prior to the response team's arrival.

The narrative of this incident is based on information obtained from interviews of the involved employees and witnesses.

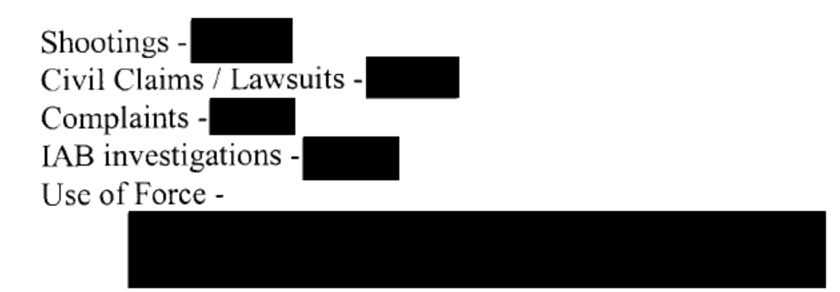
INVOLVED PERSONNEL:



[redacted]	#[redacted]	MH/[redacted]	5'08"/140 lbs.
ROJAS, Jose	#[redacted]	MH/[redacted]	5'06"/150 lbs.
[redacted]	#[redacted]	MH/[redacted]	5'11"/180 lbs.

EMPLOYEE WORK HISTORY:

Deputy [redacted] is a 5 year Department veteran who has worked at Century Station since March 25, 2001. The following is an abbreviated summary of his <u>force-related</u> performance history:



Shootings - [redacted]
Civil Claims / Lawsuits - [redacted]
Complaints - [redacted]
IAB investigations - [redacted]
Use of Force - [redacted]

Deputy Rojas is a 7 year Department veteran who has worked at Century Station since May 21, 2000. He [redacted] The following is an abbreviated summary of his <u>force-related</u> performance history:



Shootings - [redacted]
Civil Claims - [redacted]

Lawsuits - [redacted]

Complaints - [redacted]

IAB investigations - [redacted]

Use of Force - [redacted]

Deputy [redacted] is a 14 year Department veteran who has worked at Century Station since February 23, 1990. The following is an abbreviated summary of his force-related performance history:

Shootings -
- 1 - Armed person, fleeing suspect, moving vehicle, sniper/ambush, vehicle pursuit.

Civil Claims / Lawsuits - [redacted]
Complaints - [redacted]
IAB investigations - [redacted]
Use of Force - [redacted]

SUSPECT:

Acuna, Juan	BK#7588638	MH/32	5'06"/150 lbs

Suspect Acuna is a 42 year old male Hispanic who was arrested for Assault with a Deadly Weapon on a Peace Officer, 245(C) PC; and Assault with a Deadly Weapon, 245(A)(1) PC.

Criminal History: [redacted]

WITNESSES:

Arriaga, Michael, Sergeant, Century Station
[redacted] Deputy, Century Station
Starz, Curt B., Century Station
[redacted] Deputy, Century Station
[redacted]
Pelayo, Arturo, M.D., St. Francis Medical Center

INJURIES:

SUSPECT JUAN ACUNA:

Medical records for Suspect Acuna from St. Francis Medical Center indicate that he was taken to their emergency room for treatment following the use of force due to a complaint of pain to his shoulder. His left shoulder was X-Rayed. Approximately eight hours after the incident, the X-Rays were reviewed and it was determined the left shoulder was fractured. The treating physician stated the injury was consistent with a larger sized man tackling a smaller one [the suspect] (see Witness Pelayo's interview summary).

DEPUTY [redacted]

Small bruise to right side of head, above right ear.

DEPUTY JOSE ROJAS:

None.

DEPUTY [redacted]

None.

PHYSICAL EVIDENCE:

NONE.

INVESTIGATOR OBSERVATIONS:

The Force Roll-out Team was called out several hours after the incident took place and all parties

were gone from the location. The immediate area at the location was checked for any evidentiary value after the involved deputies, witnesses and suspect were interviewed. Due to several hours of heavy vehicle traffic passing over the surface of the roadway, no signs of broken glass / bottle debris was present.

Investigators noted during their interview of the suspect, that he was somewhat incoherent and rambled when answering questions. His speech also sounded somewhat slurred, as if he was on some form of drug. The smell of alcohol was not detected on his breath or person at the time of the interview.

WEAPONS USED BY DEPUTY PERSONNEL:

Deputy [redacted]

Restraint Device (Handcuffs), while assisting in handcuffing, he used control holds to restrain Suspect Acuna and force his hands out from underneath him for handcuffing.

Deputy Jose J. Rojas:

Control Holds (Takedown), came up behind suspect and placed him in a "bear hug" and tackled him, taking him down to the asphalt street.

Deputy [redacted]

M-26 Taser - two, five second bursts. Darts did not penetrate skin or inner garments but stuck in his jacket.

WEAPONS USED BY SUSPECT:

Suspect Juan Acuna

Swung burlap sack containing empty bottles and cans and struck Deputy [redacted] in the left side of his head.

Resistance, Suspect Acuna ignored commands and refused to remove his hands from underneath his body and he refused to put his hands behind him and while laying on his stomach.

PROPERTY DAMAGE:

NONE

CRIMINAL INVESTIGATOR AND CHARGES FILED:

Century Station Detective Bureau

Detective Judson Doyle #[redacted]

Suspect Juan Acuna was charged with (1) one count of 245 (C) P.C, Assault with a Deadly Weapon on a Peace Officer.

On October 1, 2003, the court determined Suspect Acuna to be mentally incompetent and the trial was suspended. He was subsequently sent to Patton State Hospital per 1370 P.C. for further evaluation and treatment.

LIGHTING AND WEATHER CONDITIONS:

At the time of the incident it was daylight and the weather was clear.

INVOLVED EMPLOYEE STATEMENTS:

Deputy [redacted]

He was interviewed on March 14, 2003 at the Internal Affairs Bureau offices at 1031 hours by Sergeants Dave Stunson and Joe Gooden. Deputy [redacted] was represented by Green and Shinee attorney James Brady. The interview was recorded.

Deputy [redacted] said he was working with Deputy Rojas in two-person unit [redacted] when they received a radio call of a "possible 5150" on Slauson Avenue. He said he saw a male Hispanic (later identified as Suspect Acuna) in the driveway at the location. He said the suspect was yelling and seemed to be angry. He was holding a bag in his right hand which appeared to be full of some unknown contents. He said he later could hear the rattling around of the contents and it sounded like glass bottles.

He said that when he got out of the radio car to contact the suspect, the suspect started yelling at him. Deputy [redacted] said he ordered the suspect at least twice to drop the bag but he did not comply. As he ignored commands to drop the bag, he yelled, "Mata mi, mata mi," which Deputy [redacted] said he understood to mean "Kill me." Deputy [redacted] said he withdrew his service weapon and began to step back, away from the suspect and the suspect stopped momentarily. The suspect then charged at Deputy [redacted] and swung the bag filled with bottles and struck the deputy on the right side of his head and right shoulder. The suspect then began to swing again in an attempt to strike him again and Deputy [redacted] saw his partner run up behind the suspect and tackle him before he could do so. He said both the suspect and Deputy Rojas landed on the asphalt. The suspect placed his hands under his body, preventing him and Deputy [redacted] from handcuffing Suspect Acuna.

Deputy [redacted] head Deputy [redacted] tell Suspect Acuna if he did not place his hands behind his back, he would use the Taser on him. When, Suspect Acuna did not comply, Deputy [redacted] "tased" him. After the use if the Taser, Suspect Acuna placed his hands behind his back and was handcuffed without further incident.

Deputy Jesus J. Rojas:

Deputy Rojas was interviewed at 0947 hours on March 14, 2003, at the Internal Affairs Bureau offices by Sergeants Dave Stunson and Joe Gooden Deputy Rojas was represented by Green and Shinee attorney James Brady. The interview was recorded.

He said he and Deputy [redacted] were assigned to handle a "Possible 5150, man hitting cars on the street" call.

Upon arrival, he saw a male Hispanic holding a bag which he described as a "burlap bag, like a potato bag." He said the bag contained "recyclable bottles and cans." En route to the call, he said he put out a request over the radio for the assisting unit and the field sergeant, who he believed had M-26 tasers and other less-than-lethal devices, to respond and prepare to deploy. He said unit [redacted] (Deps. [redacted] and [redacted] made it clear they had a taser with them.

Deputy Rojas said the suspect was standing "on the lip of the driveway, a little further inside the fence," and he and his partner took a position west of the suspect. They requested their assisting unit to respond and take up a position on the east side of the suspect's location. Both units arrived approximately the same time and took a brief time to stop traffic to get their radio cars in position. The exited their vehicles.

The suspect turned his attention to and charged Deputy Rojas' partner [Deputy [redacted]], who was on the driver's side of the radio car, closest to the suspect, approximately 20 feet from him. Deputy Rojas was on the passenger side. He said the suspect "came at him, not running, but at a fast pace, and he started yelling, 'Kill me. Kill me.' He was yelling in Spanish. He said 'Mata mi. Mata mi." Deputy Rojas said as the suspect approached his partner, Deputy [redacted] drew his weapon and pointed it at the suspect. He said his partner started backing up into the street. The suspect then swing the bag up and at his partner, hitting him on the shoulder/head area.

Deputy Rojas said he was exiting the car, trying to get around the front car, to get a position up behind the suspect. He heard the strike of the bag and heard the bottles in the bag break. He said his partner backed off after being hit and he secured his weapon. He appeared to be considering grabbing a hold of the suspect, but the suspect swung the bag again. Deputy Rojas saw this believed the suspect was going to hurt Deputy [redacted] He then approached the suspect from behind and tackled him with a "full-body tackle." He said he knocked the suspect's right arm, which contained the bag, down, and then took him down, landing on the ground, his chest on the suspect's back, and the suspect's chest on the ground. He said he shouted commands at the suspect twice , "Give me your hands, give me your hands," and "Let go of the bag." He said the suspect was on his stomach and was attempting to turn over to get away.

He said Deputy [redacted] backed out of his view while his attention was on the suspect he was holding. He said that there was broken glass all around them, so he was trying not to move about to reduce the possibility of getting cut by the glass. Deputy Rojas said Deputy [redacted] approached him from the side and said, "Get clear." He said Deputy [redacted] told the suspect in Spanish, "Put your hands behind your back," but the suspect did not show his hands. Deputy Rojas said he rolled away from the suspect and Deputy [redacted] tased the suspect. He said he (Rojas) yelled commands in Spanish. He said the suspect continued to struggle and tried to turn to get up. Deputy Rojas only saw Deputy [redacted] activate the taser once, but was later told by Deputy [redacted] that he used it twice. He said that shortly after, he and Deputies Starz and [redacted] handcuffed the suspect without use of any impact strikes of any kind.

When asked if he thought the suspect appeared to have been under the influence or be mentally ill, Deputy Rojas said, "Just adrenalin I guess. He was really angry." He said that after he was handcuffed, he noticed the taser darts were situated in the suspect's jacket. He also noticed the suspect had an "inch and half to two inch abrasion" to his forehead area, which side he did not recall. He said he advised Sergeant Arriaga when he arrived, that the suspect may have sustained the abrasion when he tackled him. He said they requested paramedics to respond, which they did, and the suspect was transported to the hospital due to his being tased and due to his abrasion.

Deputy Rojas said that his partner, Deputy [redacted] showed great restraint in not firing his weapon at the suspect, due in part to Witness [redacted] being near the line of fire.

Deputy [redacted]

Deputy [redacted] was interviewed on March 14, 2003, at the Internal Affairs Bureau offices by Sergeants Dave Stunson and Joe Gooden. Deputy [redacted] was represented by Green and Shinee attorney James Brady. Deputy [redacted] said he was an assisting unit on the call working as the "book man" with Deputy [redacted] Prior to arriving at the location, he heard radio traffic of the handling unit requesting a field supervisor to respond to the location. He said a sergeant indicated he would respond from the station.

Witness [redacted] said he and his partner arrived from the east and parked their vehicle on Slauson Avenue, just east of the location partially in the driveway, and partially in the street (See **Exhibit D, Figure 5**, adjacent to the blue car in the photograph). He said he saw a male [suspect] in the vicinity of the driveway and a female black [victim] nearby. He said the suspect was near the sidewalk near the slide gate (See **Exhibit D, Figure 3**, behind blue Ford Contour in photo). He said Deputy [redacted] and his partner

Deputy [redacted] said he heard the suspect "yelling incoherently" and saw the victim yelling and motioning toward the suspect. When he saw what was going on, he went back to his radio car trunk to retrieve an M-26 Taser. As he was at the trunk, he saw that the suspect advancing toward Deputy [redacted] who was located in the #2 traffic lane, focusing his attention on Deputy [redacted] while saying "Kill me. Kill me," in Spanish ["Mata mi. Mata mi."]. He said that he continued to watch as he

obtained the taser and he then saw the suspect in a "lunging motion" at Deputy [redacted] swing a bag at him, hitting him with the bag on his upper body. He said this occurred in the #2 lane.

He said as the suspect began to swing the bag a second time, in an apparent attempt to strike Deputy [redacted] again, Deputy [redacted] saw Deputy Rojas came around the car and "take 'em down." "It looked like Deputy Rojas tackled him from behind." He said the contents of the bag, which were bottles and cans, fell out onto the street. He said that both the suspect and Deputy Rojas landed on the surface of lane #2 with the deputy on top, and the suspect laying on his stomach on the bottom, with his hands underneath him. He said the suspect resisted efforts and commands to put his hands behind him for handcuffing, and he kept them beneath him where deputies could not see them.

Deputy [redacted] said that due to the suspect ignoring commands by deputies, his assaultive behavior, his incoherent yelling, and the possibility that he may have a knife or other weapon beneath him, he believed it to be a "high-risk situation" and he told deputies to back away. Simultaneously, he ordered the suspect in English to, "Put your hands behind your back or I'm going to tase you." He said he didn't know at the time that whether or not the suspect was Spanish-speaking only or not. He said the suspect did not comply and from a distance of approximately 5 feet, he activated the M-26 and it made contact with the suspect's clothing which prevented the taser from having effect on the suspect. The suspect did not bring his hands out from underneath him, so Deputy [redacted] activated the taser a second time and "then the suspect brought his hands out." He said that Deputy Rojas, [redacted] and Starz handcuffed the suspect.

He said that after the suspect was handcuffed, he was walked over to the curb, seated, and then paramedics were requested and arrived to treat the suspect. It was then that they determined the darts did not penetrate to the skin. After examined by the paramedics on scene, Deputy [redacted] rode in the ambulance while the suspect was transported to St. Francis Medical Center. He said the suspect kept saying "Mata mi, mata mi." He said he asked the suspect in English why he was saying that and the suspect replied that he was very upset, that the lady [Victim [redacted] was trying to kill him. When asked why he attacked the deputy, the suspect told Deputy [redacted] that he had had an altercation with L.A.P.D. officers prior to his contact with deputies. Deputy [redacted] also noticed the suspect was wearing a back brace and the suspect told him he had a "pre-existing back injury." The suspect said he was not hurt. He said the suspect was cooperative all the way to the hospital. He said he was relieved by another deputy, whom, he does not recall.

When asked if he thought the suspect was under the influence of alcohol or drugs, Deputy [redacted] said it appeared to him that the suspect had no fear of deputies, and that there was "something wrong with him." He said Deputies [redacted] and Rojas showed "great restraint" with the suspect.

WITNESS STATEMENTS:

Sergeant Michael Arriaga:

Witness Arriaga was interviewed regarding his knowledge and inquiry of the force incident that occurred on the previous shift, in the Century Station Captain's Conference Room on February 13, 2003, at 2116 hours by Internal Affairs Bureau Sergeant Joseph Gooden. The interview was tape recorded.

The witness said that at 1307 hours a "5150" call was dispatched for the location at [redacted] E. Slauson Avenue (a business establishment) and at approximately 1315 hours, he was contacted by field Sergeant George Berumen, who was going off-duty from Day shift, asked Witness Arriaga to respond for him, to gather the facts of the incident for him. Witness Arriaga, who was starting his P.M. shift, agreed and responded from the station to the location where he saw a radio car "pulled in a driveway just west of the business" (see **Exhibit D, Figures 5 & 6**) and he saw broken glass in the middle of the street. He said that the suspect had already been transported to the hospital by the time he arrived on scene. He said he saw three people standing in front of the business, who he was later told were a victim and two witnesses to the incident (Victim [redacted] Witnesses [redacted] and [redacted].

Witness Arriaga contacted involved Deputy [redacted] who told him that he [redacted] and his partner, Deputy Jesse "Jesse" Rojas (Unit [redacted] responded to the "5150" call and upon arrival Deputy [redacted] saw a male Hispanic (Suspect Juan Acuna) who seemed "quite agitated." Deputy [redacted] told Witness Arriaga that the suspect had a large "plastic type garbage bag" in his hands and he was just "yelling and screaming." The witness said the deputies told the suspect to drop the bag, but he refused to do so. The witness said Deputy [redacted] stepped back and ordered the suspect to drop the bag again but the suspect "rushed" at Deputy [redacted] and started swinging the bag at the deputy which struck him in the right shoulder and right side of the head. They later found broken bottles and cans inside the bag.

Witness Arriaga said that Deputy Rojas saw that Deputy [redacted] was being attacked and he ran up from behind Suspect Acuna and "brought him down" to the ground. He said that this tackling occurred "right in the middle of Slauson Avenue" approximately in front of [redacted] or a little west of that address. Witness Arriaga said that Deputy Rojas said he used a "bear-hug" type method to restrain the suspect and then use his body weight and take-down the suspect. The suspect still had the bag in his hand and at the time the bag struck Deputy [redacted] some of the bottles and cans came out of the bag and landed in the street. The suspect fell on or amongst the strewn broken bottles and may have sustained some "very minor" lacerations on his arms from landing on the materials or may have sustained them while continuing to struggle while the deputy was on top of him on the asphalt.

Once on the ground, the involved deputies attempted to handcuff the suspect but the suspect continued to "violently struggle." At that time, Deputy [redacted] approached with a M-26 Taser, directed Deputies [redacted] and Rojas to "clear," and after they did, Deputy [redacted] tased the suspect one time. The suspect was then incapacitated by going limp which enable deputies to handcuff him, lift him up from the street and escort him over to the curb where he remained until paramedics arrived and treated him.

Victim [redacted] told the witness she was driving her white Chrysler into the driveway of the furniture store parking lot and immediately heard a loud "thump" as if someone was banging on her car. As she stopped in the parking lot of the business, she heard her car being hit with several loud "bangs" and looked in her rear-view mirror and saw Suspect Acuna banging and kicking the side of her car with his feet, hands and the trash bag he had. She said she got out of the car to ask what his problem was and he began to be belligerent and started cursing at her. She told the suspect to leave her alone and to go away but he then chased her around the car and caught her. He hit her in the back and shoulder with the bag. When she called out for help, two males (the other witnesses) told the suspect to stop his attack. At this time, Victim [redacted] ran into the business and called the Sheriff's Station.

Witness [redacted] gave Witness Arriaga essentially the same recollection of events as Victim [redacted] but said he was inside the business when things began. From inside, he saw the suspect kicking and pounding on the victim's car and saw the suspect hit the victim with the trash bag. When he and Witness [redacted] contacted the suspect and told him in Spanish to stop or they would call police but the suspect said that he did not care.

Witness [redacted] told Witness Arriaga substantially the same thing as Witness [redacted]

Witness Arriaga said that Deputy Jesse Rojas reported that he used force to restrain Suspect Acuna. Deputy Rojas told Witness Arriaga that when he saw Suspect Acuna attacking and hit Deputy [redacted] he ran up from behind the suspect and pulled him to the ground. He said that Deputy [redacted] assisted in overcoming the suspect to help handcuff him. Deputy [redacted] told Witness Arriaga that me used the M-26 Taser once on Suspect Acuna to incapacitate.

Witness Arriaga was told that upon paramedic AMR unit 3348 arriving with Paramedics Jackson #[redacted] and O'Neil #[redacted] on board, they treated and transported the suspect to St. Francis Medical Center for further examination. Witness Arriaga said that he responded to the emergency room but doctor's had already assessed the suspect and it appeared that the suspects injuries were "extremely minor" and he was left "on-hold" in the emergency room. Several hours later, the suspect was X-rayed and found to have a fractured bone in his left shoulder.

Witness Arriaga said the suspect did not make any statements to him and in fact, would yell and scream and kick his feet, and go into "some type of convulsions. I don't know if that was some type of act, or what it was." He also said the suspect refused pain medication.

Deputy [redacted]

Witness [redacted] was interviewed on March 14, 2003 and he elected to have Green and Shineee attorney James Brady represent him during the interview. He said he and Witness [redacted] were given the assist on the call of an irate Hispanic man and as they arrived, he saw a male Hispanic, "who was holding what appeared to be a duffle bag," arguing with a female black at the mouth of the driveway at the location. He said they pulled into the "driveway area just east of the location"

and the handling unit pulled in just west of their location. He said that the female was "still pretty irate and yelling back at him [Suspect Acuna]" when the suspect noticed the radio cars arrive. He said he got out of his car and saw Victim [redacted] standing on the driver's side of her vehicle, which was parked directly east of the cargo truck in the driveway (See **Exhibit D, photo Figure 1**) and was arguing with the suspect who was approximately 5 feet north of her location, in the driveway.. The witness said he shuttled the victim back to the fixed post of the sliding gate because he could see her level of anger at the suspect and he did not know what had occurred prior to his arrival (See **Exhibit D photo Figure 3, 5, 6 &7**). He said she was yelling and she was trying to get past the witness to continue yelling at the suspect. The witness said this caused him to focus his attention her.

Witness [redacted] said that as he saw Victim [redacted] calm down, he turned around and saw the suspect laying face down in the #2 lane of Eastbound Slauson Avenue. He said that while he dealt with the victim, he could hear commands from Deputy [redacted] being directed at the suspect, but he did not monitor developments due to his attentions being on the victim prior to turning around. He said he did not see anything but heard commands and also the sound of glass breaking.. He did not see any force used. He said he saw the suspect being handcuffed, but he did not remember who placed the handcuffs on the suspect. He said radio cars partially blocked the #2 lane and traffic either stopped or went around during the incident.

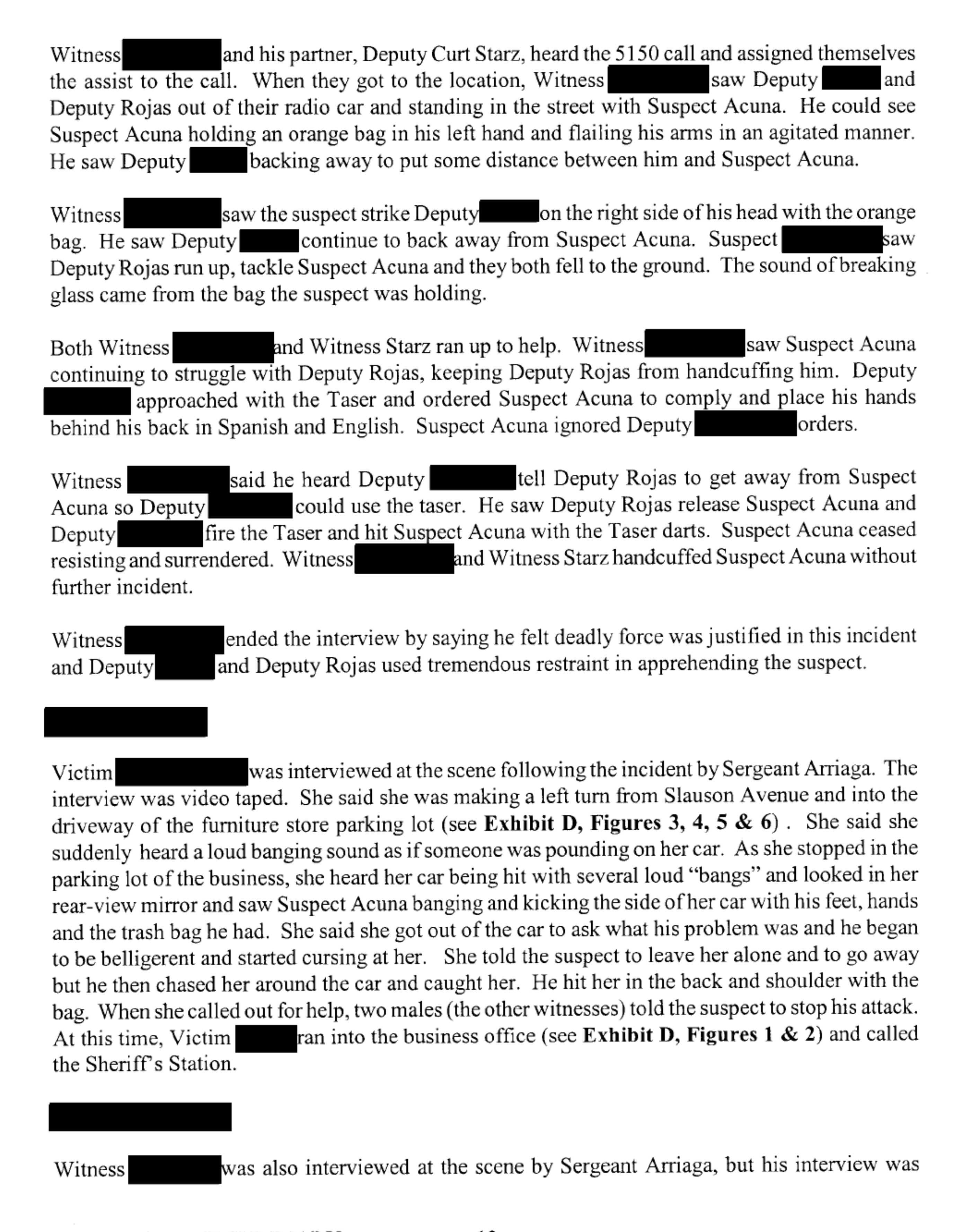
Deputy Curt B. Starz:

Witness Starz was interviewed on March 19, 2003 and he elected to have Green and Shinee attorney James Brady present to act as his representative. Witness Starz said he and Deputy [redacted] were the third unit to arrive at the scene. He saw Suspect Acuna in the street with Deputy [redacted] being the closest deputy to the suspect. Suspect Acuna was holding an orange bag and yelling and flailing his arms at Deputy [redacted] He then saw Suspect Acuna rush toward Deputy [redacted] Deputy [redacted] backed up and drew his firearm. Suspect Acuna raised the bag and struck Deputy [redacted] in the head with it. From the way Suspect Acuna swung the bag, Deputy Starz could see that the bag had some weight to it. Afterwards, Witness Starz saw the bag was full of bottles and cans.

After being Struck by the bag Deputy [redacted] backed up. Deputy Rojas then rushed up and tackled Suspect Acuna, driving the suspect to the ground. Deputy Rojas and the Suspect began struggling on the ground. Witness Starz saw the suspect had his hands under his body and Deputy Rojas was having difficulty getting the suspect's hands behind his back. After about fifteen to twenty seconds went by with no success, Witness Starz heard Deputy [redacted] tell Deputy Roas to get off Suspect Acuna so Deputy [redacted] could use the taser on the suspect. Witness Starz could see the use of the Taser had an effect on the suspect because the suspect went limp and became cooperative after being tased. He and Witness [redacted] hand cuffed the suspect without further incident.

Deputy [redacted]

Witness [redacted] was interviewed on March 19, 2003 and he elected to have Green and Shinee attorney James Brady present to act as his representative.



Witness [redacted] and his partner, Deputy Curt Starz, heard the 5150 call and assigned themselves the assist to the call. When they got to the location, Witness [redacted] saw Deputy [redacted] and Deputy Rojas out of their radio car and standing in the street with Suspect Acuna. He could see Suspect Acuna holding an orange bag in his left hand and flailing his arms in an agitated manner. He saw Deputy [redacted] backing away to put some distance between him and Suspect Acuna.

Witness [redacted] saw the suspect strike Deputy [redacted] on the right side of his head with the orange bag. He saw Deputy [redacted] continue to back away from Suspect Acuna. Suspect [redacted] saw Deputy Rojas run up, tackle Suspect Acuna and they both fell to the ground. The sound of breaking glass came from the bag the suspect was holding.

Both Witness [redacted] and Witness Starz ran up to help. Witness [redacted] saw Suspect Acuna continuing to struggle with Deputy Rojas, keeping Deputy Rojas from handcuffing him. Deputy [redacted] approached with the Taser and ordered Suspect Acuna to comply and place his hands behind his back in Spanish and English. Suspect Acuna ignored Deputy [redacted] orders.

Witness [redacted] said he heard Deputy [redacted] tell Deputy Rojas to get away from Suspect Acuna so Deputy [redacted] could use the taser. He saw Deputy Rojas release Suspect Acuna and Deputy [redacted] fire the Taser and hit Suspect Acuna with the Taser darts. Suspect Acuna ceased resisting and surrendered. Witness [redacted] and Witness Starz handcuffed Suspect Acuna without further incident.

Witness [redacted] ended the interview by saying he felt deadly force was justified in this incident and Deputy [redacted] and Deputy Rojas used tremendous restraint in apprehending the suspect.

[redacted]

Victim [redacted] was interviewed at the scene following the incident by Sergeant Arriaga. The interview was video taped. She said she was making a left turn from Slauson Avenue and into the driveway of the furniture store parking lot (see **Exhibit D, Figures 3, 4, 5 & 6**) . She said she suddenly heard a loud banging sound as if someone was pounding on her car. As she stopped in the parking lot of the business, she heard her car being hit with several loud "bangs" and looked in her rear-view mirror and saw Suspect Acuna banging and kicking the side of her car with his feet, hands and the trash bag he had. She said she got out of the car to ask what his problem was and he began to be belligerent and started cursing at her. She told the suspect to leave her alone and to go away but he then chased her around the car and caught her. He hit her in the back and shoulder with the bag. When she called out for help, two males (the other witnesses) told the suspect to stop his attack. At this time, Victim [redacted] ran into the business office (see **Exhibit D, Figures 1 & 2**) and called the Sheriff's Station.

[redacted]

Witness [redacted] was also interviewed at the scene by Sergeant Arriaga, but his interview was

inaudible on the tape. He was re-interviewed telephonically by Internal Affairs Sergeant Dave Stunson on December 15, 2003. The interview was recorded.

Witness [redacted] remembered the incident. He said he was there at the location shopping for furniture when he noticed Victim [redacted] "make a quick left" into the driveway (see **Exhibit D, Figure 1**) of the business from Slauson Avenue. He said that as she did so, a pedestrian (Suspect Acuna) walking near the driveway and "jumped out of the way" to avoid being struck by the vehicle. He said Suspect Acuna started screaming at Victim [redacted] asking her what her problem was. She asked him what his problem was. He said the suspect got angry because Victim [redacted] wasn't apologizing, so the suspect began banging on her car with a burlap bag and his hands. He said the bag sounded like it contained tin cans.

The witness said that this continued for about ten minutes before police arrived. As they arrived, two deputies pulled close to the driveway and exited their vehicle and they asked the witness, "Where is he?" He and Witness [redacted] pointed to Suspect Acuna. The deputies then approached Suspect Acuna who was on the sidewalk near the driveway (**Exhibit D, Figures 1 & 2**) and ordered him to "get on the ground." The suspect was pointing at Victim [redacted] and indicated they should contact her. They repeated their command for him to lay down but he did not comply. As the one deputy issued commands to the suspect, with his gun drawn, the witness saw the suspect, who was still angry, advance on the deputy and repeatedly swing the burlap bag at him and then hit the deputy on the arm with the bag. He said the deputy, who was in the #2 lane, was backing away from the suspect when he was hit on the upper forearm or shoulder area with the bag. He said the deputy attempted to block the blow with his left forearm.

Immediately after the deputy was struck, a second deputy [Rojas] came up around the suspect and "tackled him from the back." A third deputy [redacted] deployed and used a taser on the suspect and "got him under control." He said they then handcuffed the suspect. He said there was no other force used on the suspect.

[redacted]

Witness [redacted] was also interviewed by Sergeant Arriaga at the scene and gave essentially the same recollection of events as Victim [redacted] had. However, he said he was inside the business office when the incident started. When he heard the commotion, he looked outside out at the driveway of the business and he saw the suspect kicking and hitting Victim [redacted] vehicle. He said he and saw the suspect swing the burlap bag and hit Victim [redacted] with it. He said he and Witness [redacted] walked up to the suspect and spoke to him in Spanish. They told him to stop the assault or they were going to call police out. He said the suspect was upset and said in Spanish that he did not care if they called police.

Arturo Pelayo, M.D.:

Witness Pelayo was the treating physician at St. Francis Medical Center emergency room when

Suspect Acuna was brought in on the afternoon of February 13, 2003. Witness Pelayo was contacted on March 26, 2003, to request and afford him the opportunity to review Suspect Juan Acuna's medical records and refresh his memory. On the date of the incident, the Force Team investigators did not arrive at the emergency room until after it was discovered that the suspect had sustained a fracture to his left shoulder, which was approximately 8 hours after the incident, after the witness/doctor had gone off shift.

The witness was interviewed telephonically by Internal Affairs Bureau investigator Sergeant David Stunson on March 27, 2003, at 1650 hours regarding his medical treatment and interpretation of the consistency of the injuries to the force reported by the involved deputies. The interview was tape-recorded.

The witness said he remembers treating the suspect on February 13, 2003, after the suspect was brought into St. Francis Medical Center's Emergency Room. He said he was told at the time of treatment that the suspect had resisted efforts by deputies to be arrested and be handcuffed and that he was "tased." He said that the suspect's abrasion and his fractured shoulder were consistent with a larger sized deputy [Rojas] tackling the smaller suspect to the asphalt and falling on top of him.

He said that there was no physical indication that any other force was used on the suspect aside from that communicated to him on the date of the incident by deputies in the emergency room and by Sergeant Stunson prior to the taped interview on this date. He does not recall the names of Century patrol deputies who briefed him and/or his emergency room nurses.

SUSPECT STATEMENT:

Suspect Juan Acuna

Suspect Jose Acuna was interviewed regarding the incident at the St. Francis Medical Center emergency room at 2147 hours by Sergeants Dave Stunson and Joe Gooden. Suspect Acuna was ranting on incoherently during the interview and we were unable to obtain any information from him.

IAB Note: Since the incident, suspect Acuna has been found by the courts to be criminally insane per 1370 P.C. **(Exhibit E)**